IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO: 7209 of 1997

Between:

1 Assistant Commercial Tax Officer,
Bainsa, Adilabad District.
2 Commercial Tax Officer,
Nirmal, Adilabad District.
3 Dist. Commercial Tax Officer,
Adilabad District.
4 Commissioner for Commercial Taxes,
AP Hyderabad.

..... PETITIONERS

AND

1 Pasupula Poshetti, S/o Ramulu,
H.No.1-3-103, Boiwada,
Nirmal, Adilabad District.
2 Chairman-cum-Presiding Officer,
Industrial Tribunal-Cum-Labour Court, Godavarikhani.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction particularly one in the nature of writ of certiorari or any other appropriate writ, order or direction calling for the records in I.D.No.44/93 dt.5.10.1996 on the file of the Industrial Tribunal-cum-Labour court Godavarikhani, and quash the same.

Counsel for the Petitioner: SPL GP FOR TAXES

Counsel for the Respondent No.2: GP FOR LABOUR

The Court made the following:

O R D E R:

The petitioners are the Assistant Commercial Tax Officer and other officials of the same Department who seek to assail the award dated 05-10-1996 passed in I.D.No.44 of 1993 on the file of the second respondent.

The case of the petitioners is that the first respondent was initially appointed as a Sweeper-cum-Night watchman on temporary and daily wage basis on 29-10-1987. Having worked for some time, he absconded from duty without any prior notice. Accordingly, the first respondent was terminated from service. Aggrieved by the same, the first respondent raised an I.D. and reference was made before the second respondent under Section 2-A (2) of the Industrial Disputes Act, 1947, (hereinafter referred to as 'the Act') and ultimately, the award dated 05-10-1996 was passed awarding a sum of Rs.10,800/- to him towards compensation.

The learned Government Pleader appearing for the petitioners submits that having regard to the fact that the petitioners are discharging sovereign functions, they will not come within the definition of industry, so as to warrant the invocation of the provisions of the Act and therefore, the entire award proceedings are vitiated. In support of his contention, he placed reliance on a decision of this Court in *MD. RAJMOHAMMAD VS. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT*, wherein it was held that the Directorate of Census Operations performing purely a sovereign function of enumeration of Census work is not an industry.

Though served, none appears on behalf of the respondents.

Having heard the learned counsel for the petitioners and on perusal of the material, it is seen that the petitioners are officials of State government discharging sovereign functions and therefore, the decision relied on behalf of the petitioners clearly applies to the facts of the case on hand and accordingly, it has to be held that the petitioners cannot fall within the definition of industry and therefore,

there could not have been any reference of the dispute to the Industrial Tribunal for decision thereof.

In the circumstances, the award dated 05-10-1996 is set aside and the writ petition is allowed. No costs.

(**B. PRAKASH RAO, J**)

Date: 25-11-2004

ghn

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, the twenty fifth day of November, Two thousand and Four.

To

1 The Chairman-cum-Presiding Officer,
Industrial Tribunal-Cum-Labour Court, Godavarikhani.

2 Two C.Cs. to G.P. for Labour, High Court Buildings,

High Court of A.P., Hyderabad, (OUT)

3 Two C.D. Copies.

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